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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,988	12/20/2001	Kazuo Tsuge	S2856-0024/P024	1223
7590	05/04/2006			EXAMINER ARAQUE JR, GERARDO
Steven I. Weisburd DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP 41st Floor 1177 Avenue of the Americas New York, NY 10036-2714			ART UNIT 3629	PAPER NUMBER
DATE MAILED: 05/04/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/026,988	TSUGE, KAZUO	
	Examiner Gerardo Araque Jr.	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 December 2001.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 - 10 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1 - 10 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of a certified copy of the 2000-3908410 application referred to in the oath or declaration or in an application data sheet. If this copy is being filed to obtain the benefits of the foreign filing date under 35 U.S.C. 119(a)-(d), applicant should also file a claim for such priority as required by 35 U.S.C. 119(b). If the application being examined is an original application filed under 35 U.S.C. 111(a) (other than a design application) on or after November 29, 2000, the claim for priority must be presented during the pendency of the application, and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. See 37 CFR 1.55(a)(1)(i). If the application being examined has entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the claim for priority must be made during the pendency of the application and within the time limit set forth in the PCT and Regulations of the PCT. See 37 CFR 1.55(a)(1)(ii). Any claim for priority under 35 U.S.C. 119(a)-(d) or (f) or 365(a) or (b) not presented within the time period set forth in 37 CFR 1.55(a)(1) is considered to have been waived. If a claim for foreign priority is presented after the time period set forth in 37 CFR 1.55(a)(1), the claim may be accepted if the claim properly identifies the prior foreign application and is accompanied by a grantable petition to accept an unintentionally delayed claim for priority. See 37 CFR 1.55(c).

Information Disclosure Statement

2. The information disclosure statement filed August 25, 2003 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because no English translation of relevance was submitted. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1- 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roach et al. (US Patent 5,310,997) in view of Murrah et al. (US Patent 5,804,807).**

In regard to **independent claims 1, 4, 7, and 8**, Roach discloses a shopping system with a portable unit (Column 3 Lines 53 – 58), an information kiosk located throughout the store (Column 8 Lines 55 – 59), a computer system at a remote location with they system connected on a Local Area Network (LAN) (Column 3 Lines 59 – 65). Moreover, Roach discloses that the product information is entered into the computer

system through the use of a light pen or through the scan gun (Column 12 Lines 13 – 16). The transmissions that are sent contain the customer and merchandise numbers so that the information can be retrieved to build a sales transaction, which are stored on a database (Column 2 Lines 19 – 29) connected to the network. Furthermore, it is inherent that a kiosk connected to a network will require some type of identification number in order to properly communicate with the central computer.

Roach teaches all of the elements claimed with the exception of utilizing a wireless network as the method of transmitting data throughout the store. The examiner takes Official Notice that having a wireless network is old and well established in the business of setting up networks as a convenient way of avoiding extensive wiring, routing of wires, and cost of implementing the wires. Moreover, having a wireless network would allow more people to access a wireless apparatus without the hassle of waiting for someone to finish their usage of the apparatus if it were not wireless.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have included a wireless network as the principal method of transmitting data because a skilled artisan would have recognized that this business practice would increase the number of kiosks that would be available on the sales floor, allow the transmitted information be available more readily throughout the store, and increase the number of consumers able to access the network and kiosks. (Note: Further evidence that wireless networks were known at the time of the applicant's invention is provided by Murrah et al. US Patent 5,804,807).

5. In regards to **claim 2**, Roach discloses that information kiosks are interspersed throughout the store (Column 8 Lines 55 – 59 <http://webster.com/cgi-bin/dictionary?va=interspersed>).
6. In regards to **claim 3**, the transmissions that are sent contain the customer and merchandise numbers so that the information can be retrieved to build a sales transaction, which are stored on a database (Roach Column 2 Lines 19 – 29) connected to the network. Furthermore, it is inherent that a kiosk connected to a network will require some type of identification number in order to properly communicate with the central computer.
7. In regards to **claim 5 – 6 and 9 - 10**, Roach discloses that each computer is a handheld personal computer that includes an infrared light pen (Roach Column 5 Lines 45 – 47). Moreover, each computer communicates with a server via RF transmission (Roach Column 5 Lines 54 – 55).

Conclusion

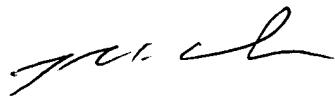
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - a. Murrah et al (US Patent 5,984,182) teaches a scan-ahead system for processing merchandise at a checkout register,
 - b. Yoshinaga et al (US Patent 6,189,781) who teaches a terminal unit having the function for converting commodity information into bar code and vice versa,
 - c. Tayama (US Patent 6,625,580) who teaches a wireless order and delivery system, and

d. Clouser et al (US Patent 6,607,125) who teaches a handheld merchandise scanner device

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number is (571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



GA
2006 April 27

JOHN G. WEISS
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